

PATENT COOPERATION TREATY

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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT

(PCT Rule 71.1)

To:

MCCALLUM RADEMEYER & FREIMOND
P.O. Box 1130
7 Maclyn House, Bordeaux
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AFRIQUE DU SUDDate of mailing
(day/month/year)

03.05.2004

Applicant's or agent's file reference
INT1072MAJR

IMPORTANT NOTIFICATION

International application No.
PCT/ZA 02/00209International filing date (day/month/year)
17.12.2002Priority date (day/month/year)
03.01.2002Applicant
VAN DYK, Andre

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:

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PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference INT1072MAJR	FOR FURTHER ACTION See Notification of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/ZA 02/00209	International filing date (day/month/year) 17.12.2002	Priority date (day/month/year) 03.01.2002
International Patent Classification (IPC) or both national classification and IPC E21C37/14		
Applicant VAN DYK, Andre		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 3 sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application 		
Date of submission of the demand 01.08.2003	Date of completion of this report 03.05.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Garrido Garcia, M Telephone No. +31 70 340-4468 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**International application No. **PCT/ZA 02/00209****1. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-13 as originally filed

Claims, Numbers

2-8, 10-15 as originally filed

1, 9 filed with telefax on 03.02.2004

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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EXAMINATION REPORT**International application No. **PCT/ZA 02/00209**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
- (Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

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Re Item V**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following document:

D1: WO 95 28551 A

The document **D1** is regarded as being the closest prior art to the subject-matter of claim 1, and shows (the references in parentheses applying to this document): a stemming apparatus for use with a first propellant charge (4) that is positioned in a hole, which includes a member (3), and an initiator (2) for igniting the first propellant charge (see page 30, line 27) which then acts on the member (3) in a predetermined direction (the first propellant charge (4) of document D1 will act upwards on the member (3) when ignited).

The subject-matter of claim 1 differs from this known stemming apparatus in that a second propellant charge is incorporated in the member that, when ignited, will act on the member to counteract a force produced by ignition of the first propellant charge.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as improving the efficiency with which rock is broken by increasing the degree to which pressure generated by the combusting propellant is confined within the blast hole.

The solution to this problem proposed in claim 1 of the present application consists of providing a second propellant charge to act on the member to counteract a force produced by ignition of the first propellant charge.

This solution is considered as involving an inventive step (Article 33(3) PCT) for the following reasons: All of the prior art documents disclose stemming apparatus whereby a single propellant charge is used, the force of which is confined by tamping or by stemming bars (see document D1). There is no hint in the art on how to modify the known stemming apparatus in a way that would fall within the terms of claim 1, so that the person skilled would be more likely to further increase the weight or the

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International application No. PCT/ZA02/00209

EXAMINATION REPORT - SEPARATE SHEET

compactness of the tamping if he wished to raise the degree of confinement of the pressure generated by the propellant.

Claims 2 to 8 are dependent on claim 1 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Independent claim 9 refers to a method of stemming describing the steps for carrying out a stemming using an apparatus as claimed in claim 1, and is new and inventive for the same reasons set out above for claim 1. Claims 10 to 15 are dependent on claim 9 and as such also meet the requirements of the PCT with respect to novelty and inventive step.

The amendments introduced in claims 1 and 9 are constrained to subject-matter disclosed in the international application as filed, and are therefore in conformity with Articles 19(2) and 34(2) PCT.

CLAIMS

Rec'd PCT/PTO 30 JUN 2004

1. Stemming apparatus which includes a member, a propellant charge and an initiator for igniting the propellant charge which then acts on the member in a predetermined direction.
- 5 2. Stemming apparatus according to claim 1 wherein the member is driven by the ignited propellant charge in the predetermined direction.
3. Stemming apparatus according to claim 1 or 2 wherein the member includes a tapered leading end or formation on a side which faces in the predetermined direction.
- 10 4. Stemming apparatus according to claim 3 wherein the member is conically shaped on the tapered leading end.
5. Stemming apparatus according to claim 3 or 4 wherein the member is constructed so that it is capable of flaring outwardly when moved in a direction which is opposite to the predetermined direction.
- 15 6. Stemming apparatus according to claim 1 wherein the member is shaped so that a gas generated force is produced by the ignited propellant in a direction which is opposite to the predetermined direction.
7. Stemming apparatus according to claim 6 wherein the member includes a recessed formation which contains the propellant charge.

8. Stemming apparatus according to any one of claims 1 to 7 which includes control means for controlling the firing of the initiator, the control means including an energy source and a timer for applying energy from the energy source to the initiator at a predetermined time.

- 5 9. A method of stemming which includes the steps of placing stemming material in a hole over a cartridge which includes a first propellant charge, positioning at least one member on the stemming material, locating a second propellant charge on or in the member, and igniting the second propellant charge at a predetermined time relatively to the time at which the first propellant charge is initiated.

- 10 10. A method according to claim 9 wherein a short time interval exists between the time at which the second propellant charge is ignited and the time at which the first propellant charge is initiated.

- 15 11. A method according to claim 9 wherein the first propellant charge is initiated substantially at the same time as the second propellant charge is ignited.

12. A method according to any one of claims 9 to 11 wherein the member is between the stemming material and the second propellant charge.

13. A method according to claim 12 wherein the second propellant charge is used to drive the member in a direction towards the cartridge.

- 20 14. A method according to any one of claims 9 to 11 wherein the second propellant charge is between the stemming material and the member.

15. A method according to claim 14 wherein the second propellant charge is used to produce a gas generated force which is directed towards the cartridge.